

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Eugene Jerome Cunningham,)	Civil Action No. 9:15-4439-RMG-BM
)	
Petitioner,)	
)	
vs.)	REPORT AND RECOMMENDATION
)	
Charles E. Samuels, Jr., Travis Bragg and)	
U. S. Justice Department;)	
)	
Respondents.)	
_____)	

This matter has been filed by the Petitioner, pro se, seeking certain mandamus relief. The Petitioner has filed a motion seeking voluntary dismissal of this case pursuant to Rule 41, Fed.R.Civ.P.

Pursuant to Rule 41(a)(1)(A)(i), an action in which a responsive pleading has not been filed may be dismissed by a Petitioner without a court order by filing a notice of dismissal. Here, however, the pro se Petitioner has filed a “motion” with the Court stating that he wishes to voluntarily dismiss this case. Therefore, out of an abundance of caution, rather than simply directing the Clerk to dismiss this case under Rule 41(a)(1)(A)(i), the undersigned is entering this Report and Recommendation recommending that the motion be **granted**, and this case **dismissed**, without prejudice.¹

¹ Although this case was automatically referred to the undersigned United States Magistrate Judge for all pretrial proceedings pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 19.02(B)(2)(d) and (e), D.S.C. , as Petitioner’s motion to dismiss his complaint is a dispositive motion, this report and recommendation is entered for review of this motion by the court.



The Petitioner is referred to the Notice Page attached hereto.



Bristow Marchant
United States Magistrate Judge

December 11, 2015

Charleston, South Carolina



Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume
United States District Court
Post Office Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).